IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1195 OF 2004

IN

SECOND APPEAL NO.1960 OF 2004

Municipal corporation of the
City of Pune .. Applicant

Versus

Shri Kanakdas Raju Shetty .. Respondent

Mr.R.G.Ketkar for applicant

Mr.S.S.Shah for respondent

CORAM : P.V.KAKADE,J.

DATE : 17TH SEPTEMBER, 2004

P.C.:

1. Heard both sides.

2. This is an application for condonation of delay of 798 days in filing the second Appeal. Perused the record.

3. It appears from the contents of application vide para 2 that usual and standard excuses are provided to seek condonation of such inordinate delay in filing the second appal. It is also submitted that it is a public body and therefore irreparable loss will be caused to the body and in turn to the public at large and therefore, application deserves to be allowed.\

. However, from the contents of the application it is apparent that one or more officers of the applicant Corporation are responsible for the delay. Though I am allowing the application in the interest of justice and in order to avoid public loss, the order would be conditional order so as to ensure that the cost shall not be paid from the tax payers money, but the responsibility will have to be fixed for such inordinate delay and when it is fixed on concerned responsible officers. It will have to be recovered from the salaries of such officers.

4. The Application is made absolute in terms of prayer clause (a) on condition that the Corporation shall pay cost of Rs.10,000/=. Out of which Rs.5000/= shall be donated to the Kirtikar Library, High Court and remaining Rs.5000/= shall be paid to the respondents within two weeks from the date of this order, failing which the matter shall stands dismissed automatically without reference to the Court.

It is further directed that the Addl. Municipal Commissioner shall hold enquiry regarding responsibility of such inordinate delay in filing the appeal and shall consider the recovery of cost amount from emoluments of the responsible staff/officers of the Corporation and send the report to this Court within eight weeks from the date of this order.